

AMENDED IN ASSEMBLY APRIL 23, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2503**

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**Introduced by Assembly Member Hagman**

February 21, 2014

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An act to amend Sections 7502.2, 7505.3, 7507.3, 7508.1, and 7508.5 of the Business and Professions Code, and to amend Sections 28, 4000, 9561, and ~~22651.1~~ of, *and 9561 of*, and to add Section 10856 to, the Vehicle Code, relating to reposseors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as amended, Hagman. Reposseors.

(1) Under existing law, a financial institution that knowingly engages a nonexempt unlicensed person to repossess collateral on its behalf is guilty of a misdemeanor.

This bill would expand the above crime to apply to ~~a dealer, as defined, that sells collateral that is secured by a security agreement and~~ to a buy-here-pay-here dealer, as defined. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(2) Existing law allows a repossession business to continue on a license for 120 days when the qualified certificate holder actively in charge of the office ceases to be in charge because of the death of the licenseholder. Existing law requires a written notice to be made to the Bureau of Security and Investigative Services.

This bill would increase the period to 180 days and would require the written notice to identify the person in charge of running the day-to-day operations of the business.

(3) Existing law authorizes the Director of Consumer Affairs to assess administrative fines for various prohibited acts, including using any identification to indicate registration as a reposessor, other than a registration card issued by the Bureau of Security and Investigative Services, except an employer identification card issued by the repossession agency which has bureau approval. Existing law allows an employee of a repossession agency to wear a badge, cap insignia, or jacket patch meeting specified requirements.

This bill would except a badge, cap insignia, or jacket patch from the prohibition on using any identification to indicate registration as a reposessor.

(4) Existing law requires the person taking possession of a vehicle whenever possession is taken by or on behalf of any legal owner under the terms of a security agreement or lease agreement to notify local law enforcement within one hour of the repossession, as specified. Violation of these provisions is a crime.

This bill would require the reposessor to attempt notification within one hour, and to accomplish notification within 2 hours of the repossession, and would specify information that would be required to be provided in the notification.

By expanding the provisions of existing law, the violation of which is a crime, this bill would impose a state-mandated local program.

(5) Existing law provides that a vehicle repossessed pursuant to the terms of a security agreement is exempt from registration solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the reposessor, and from the storage facilities to the legal owner or a licensed motor vehicle auction, provided that the reposessor transports with the vehicle the appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request.

This bill would additionally provide that a vehicle repossessed pursuant to the terms of a security agreement is exempt from registration solely for the purpose of obtaining release of the vehicle from a law enforcement entity, impounding authority, tow yard, storage facility, or any other person or company that has possession of the vehicle, provided that the reposessor transports with the vehicle the appropriate

documents authorizing the repossession and makes them available to a law enforcement officer on request.

(6) Existing law provides that if the legal owner, or his or her agent, repossesses a vehicle on which registration renewal fees are due, the Department of Motor Vehicles is to waive any renewal penalties that are due for late payment if the fees are paid within 60 days of taking possession.

This bill would apply those provisions to a repossession by a reposessor.

(7) Existing law establishes offenses for, among other things, willfully tampering or injuring a vehicle or its contents, as specified.

This bill would prohibit a person from interfering with the transport of a vehicle to a storage facility, auction, or dealer by a reposessor once repossession is complete, as provided. Violation of these provisions would be an infraction pursuant to other provisions of law.

By creating a new crime, this bill would impose a state-mandated local program.

~~(8) Existing law requires persons operating or in charge of a storage facility where vehicles that have been removed by a peace officer are stored to accept a valid bank credit card or cash for payment of towing and storage by the registered owner of the vehicle, and makes the person liable to the owner of the vehicle for 4 times the amount of the towing and storage charges if the person refuses to accept a valid bank credit card.~~

~~This bill would additionally impose this liability on a person operating or in charge of a storage facility who accepts the card but requires a copy of the card before releasing the vehicle, except as specified.~~

~~(9)~~

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7502.2 of the Business and Professions
- 2 Code is amended to read:

1     7502.2. (a) A financial institution, a dealer, as defined by  
 2 Section 285 of the Vehicle Code that sells collateral that is secured  
 3 by a security agreement as defined in Section 9102 of the  
 4 Commercial Code, *institution* or a buy-here-pay-here dealer, as  
 5 defined by Section 241 of the Vehicle Code, that knowingly  
 6 engages a nonexempt unlicensed person to repossess collateral on  
 7 its behalf is guilty of a misdemeanor, and is punishable by a fine  
 8 of five thousand dollars (\$5,000).

9     (b) Within existing resources, the Commissioner of Business  
 10 Oversight may designate employees to investigate and report on  
 11 violations of this section by any of the licensees of the department.  
 12 Those employees are authorized to actively cooperate with the  
 13 bureau in the investigation of those activities.

14     (c) A proceeding to impose the fine specified in subdivision (a)  
 15 may be brought in any court of competent jurisdiction in the name  
 16 of the people of the State of California by the Attorney General  
 17 or by any district attorney or city attorney, or with the consent of  
 18 the district attorney, by the city prosecutor in any city or city and  
 19 county having a full-time city prosecutor, for the jurisdiction in  
 20 which the violation occurred. If the action is brought by a district  
 21 attorney, the penalty collected shall be paid to the treasurer of the  
 22 county in which the judgment is entered. If the action is brought  
 23 by a city attorney or city prosecutor, one-half of the penalty  
 24 collected shall be paid to the treasurer of the city in which the  
 25 judgment was entered and one-half to the treasurer of the county  
 26 in which the judgment was entered. If the action is brought by the  
 27 Attorney General, all of the penalty collected shall be deposited  
 28 in the Private Security Services Fund.

29     SEC. 2. Section 7505.3 of the Business and Professions Code  
 30 is amended to read:

31     7505.3. (a) Whenever a qualified certificate holder actively  
 32 in charge of an office ceases to be in charge, the licensee shall file  
 33 with the bureau notice, in writing, within 30 days from the  
 34 cessation.

35     If the notice is filed, the license shall remain in force for a period  
 36 of 90 days after the filing of the notice. At the end of the 90-day  
 37 period or an additional period, not to exceed one year, as specified  
 38 by the director, if written notice is not given that a qualified person  
 39 is then actively in charge of the office, the agency license shall be  
 40 automatically suspended.

1 If the licensee shall fail to give written notice at the end of the  
2 30-day period, the agency license shall be automatically suspended.

3 A license suspended under this section may be reinstated upon  
4 payment of the reinstatement fee and submission of a reinstatement  
5 application.

6 A person who performs any act for which a repossession agency  
7 license is required during the period of suspension is subject to  
8 the penal provisions of Article 3 (commencing with Section 7502),  
9 in addition to the provisions of Article 9 (commencing with Section  
10 7508) and Article 10 (commencing with Section 7510).

11 (b) In case of the death of a person licensed as an individual, a  
12 member of the immediate family of the deceased licensee shall be  
13 entitled to continue the business under the same license for 180  
14 days following the death of the licensee, provided that written  
15 notice is made to the bureau within 30 days following the death  
16 of the licensee. The notice shall identify the person in charge of  
17 running the day-to-day operations of the business. At the end of  
18 the 180-day period, the license shall be automatically canceled. If  
19 no request is received within the 30-day period, the license shall  
20 be automatically canceled at the end of that period.

21 (c) In the case of the death or disassociation of a partner of an  
22 entity licensed as a partnership, the licensee shall notify the bureau,  
23 in writing, within 30 days from the death or disassociation of the  
24 individual. If notice is given, the license shall remain in force for  
25 90 days following the death or disassociation. At the end of that  
26 period, the license shall be automatically canceled. If the licensee  
27 fails to notify the bureau within the 30-day period, the license shall  
28 be automatically canceled at the end of that period.

29 (d) A license extended under this section is subject to all other  
30 provisions of this chapter.

31 SEC. 3. Section 7507.3 of the Business and Professions Code  
32 is amended to read:

33 7507.3. A repossession agency shall be required to keep and  
34 maintain adequate records of all transactions, including, but not  
35 limited to, assignment forms; vehicle report of repossession  
36 required by Section 28 of the Vehicle Code; vehicle condition  
37 reports, including odometer readings, if available; personal effects  
38 inventory; and notice of seizure. Records, including bank  
39 statements of the trust account, shall be retained for a period of  
40 not less than four years and shall be available for examination by

1 the bureau upon demand. In addition, collateral and personal effects  
2 storage areas shall be made accessible for inspection by the bureau  
3 upon demand. An assignment form may be an original, a  
4 photocopy, a facsimile copy, or a copy stored in an electronic  
5 format.

6 SEC. 4. Section 7508.1 of the Business and Professions Code  
7 is amended to read:

8 7508.1. The director may assess administrative fines for the  
9 following prohibited acts:

10 (a) Knowingly making any false report to his or her employer  
11 or client for whom information was being obtained. The fine shall  
12 be one hundred dollars (\$100) for the first violation, and five  
13 hundred dollars (\$500) for each violation thereafter.

14 (b) Using any identification to indicate registration as a  
15 reposessor, other than the bureau-issued registration card, except  
16 an employer identification card issued by the repossession agency  
17 which has met bureau approval, or a badge, cap insignia, or jacket  
18 patch as provided in Section 7508.8. A bureau-issued registration  
19 card shall be carried by those individuals specified by Section  
20 7506.3, and shall be shown on demand to any bureau employee  
21 or law enforcement officer. The fine shall be twenty-five dollars  
22 (\$25) for each violation.

23 (c) Using an alias in connection with the official activities of  
24 the licensee’s business. A notice of warning shall be issued for the  
25 first violation. Thereafter the fine shall be twenty-five dollars (\$25)  
26 for each violation.

27 (d) Appearing as an assignee party in any court proceeding  
28 involving claim and delivery, replevin, or other possessory court  
29 action, action to foreclose a chattel mortgage, mechanic’s lien,  
30 materialman’s lien, or any other lien. This section shall not prohibit  
31 a licensee from appearing as a defendant in any of the preceding  
32 actions. The fine shall be one hundred dollars (\$100) for each  
33 violation.

34 SEC. 5. Section 7508.5 of the Business and Professions Code  
35 is amended to read:

36 7508.5. The director may assess administrative fines against  
37 a repossession agency registrant for the following acts, in addition  
38 to fines imposed pursuant to any other section in this article. The  
39 fine shall be twenty-five dollars (\$25) for each of the following  
40 violations:

- 1 (a) Knowingly submit a false report.
- 2 (b) Submitting a report to a client without authorization by his
- 3 or her employer.
- 4 (c) Failing to carry a bureau-issued identification card and failing
- 5 to show that card upon demand to a bureau employee or a law
- 6 enforcement officer.
- 7 (d) Failing to register.
- 8 (e) Failing to return his or her registration card to the employer
- 9 upon termination.
- 10 (f) Failing to report a violent act involving the registrant to the
- 11 licensee or the licensee's qualified certificate holder within 24
- 12 hours.

13 SEC. 6. Section 28 of the Vehicle Code is amended to read:

14 28. (a) Whenever possession is taken of any vehicle by or on

15 behalf of any legal owner thereof under the terms of a security

16 agreement or lease agreement, the person taking possession shall

17 attempt to notify, within one hour, and shall notify, within two

18 hours, after taking possession of the vehicle, by the most

19 expeditious means available, the city police department where the

20 taking of possession occurred, if within an incorporated city, or

21 the sheriff's department of the county where the taking of

22 possession occurred, if outside an incorporated city, or the police

23 department of a campus of the University of California or the

24 California State University, if the taking of possession occurred

25 on that campus, and shall within one business day forward a written

26 notice to the city police or sheriff's department.

27 (b) If possession is taken of more than one vehicle, the

28 possession of each vehicle shall be considered and reported as a

29 separate event.

30 (c) Any person failing to notify the city police department,

31 sheriff's department, or campus police department as required by

32 this section is guilty of an infraction, and shall be fined a minimum

33 of three hundred dollars (\$300), and up to five hundred dollars

34 (\$500). The district attorney, city attorney, or city prosecutor shall

35 promptly notify the Bureau of Security and Investigative Services

36 of any conviction resulting from a violation of this section.

37 (d) For the notification required by this section, the person shall

38 report all of the following:

- 39 (1) The location of the repossession.
- 40 (2) The registered owner as provided on the assignment.

1 (3) The individual, company, or legal owner requesting the  
2 repossession.

3 (4) The vehicle year, make, and model.

4 (5) The last six digits of the vehicle identification number.

5 (6) The repossession agency name.

6 (7) The repossession agency telephone number.

7 SEC. 7. Section 4000 of the Vehicle Code is amended to read:

8 4000. (a) (1) A person shall not drive, move, or leave standing  
9 upon a highway, or in an offstreet public parking facility, any  
10 motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging  
11 dolly, unless it is registered and the appropriate fees have been  
12 paid under this code or registered under the permanent trailer  
13 identification program, except that an off-highway motor vehicle  
14 which displays an identification plate or device issued by the  
15 department pursuant to Section 38010 may be driven, moved, or  
16 left standing in an offstreet public parking facility without being  
17 registered or paying registration fees.

18 (2) For purposes of this subdivision, “offstreet public parking  
19 facility” means either of the following:

20 (A) Any publicly owned parking facility.

21 (B) Any privately owned parking facility for which no fee for  
22 the privilege to park is charged and which is held open for the  
23 common public use of retail customers.

24 (3) This subdivision does not apply to any motor vehicle stored  
25 in a privately owned offstreet parking facility by, or with the  
26 express permission of, the owner of the privately owned offstreet  
27 parking facility.

28 (4) Beginning July 1, 2011, the enforcement of paragraph (1)  
29 shall commence on the first day of the second month following  
30 the month of expiration of the vehicle’s registration. This paragraph  
31 shall become inoperative on January 1, 2012.

32 (b) No person shall drive, move, or leave standing upon a  
33 highway any motor vehicle, as defined in Chapter 2 (commencing  
34 with Section 39010) of Part 1 of Division 26 of the Health and  
35 Safety Code, which has been registered in violation of Part 5  
36 (commencing with Section 43000) of that Division 26.

37 (c) Subdivisions (a) and (b) do not apply to off-highway motor  
38 vehicles operated pursuant to Sections 38025 and 38026.5.

39 (d) This section does not apply, following payment of fees due  
40 for registration, during the time that registration and transfer is

1 being withheld by the department pending the investigation of any  
2 use tax due under the Revenue and Taxation Code.

3 (e) Subdivision (a) does not apply to a vehicle that is towed by  
4 a tow truck on the order of a sheriff, marshal, or other official  
5 acting pursuant to a court order or on the order of a peace officer  
6 acting pursuant to this code.

7 (f) Subdivision (a) applies to a vehicle that is towed from a  
8 highway or offstreet parking facility under the direction of a  
9 highway service organization when that organization is providing  
10 emergency roadside assistance to that vehicle. However, the  
11 operator of a tow truck providing that assistance to that vehicle is  
12 not responsible for the violation of subdivision (a) with respect to  
13 that vehicle. The owner of an unregistered vehicle that is disabled  
14 and located on private property, shall obtain a permit from the  
15 department pursuant to Section 4003 prior to having the vehicle  
16 towed on the highway.

17 (g) A vehicle repossessed pursuant to the terms of a security  
18 agreement is exempt from registration solely for the purpose of  
19 obtaining release of the vehicle from a law enforcement entity,  
20 impounding authority, tow yard, storage facility, or any other  
21 person or company that has possession of the vehicle, provided  
22 that the reposessor transports with the vehicle the appropriate  
23 documents authorizing the repossession and makes them available  
24 to a law enforcement officer on request.

25 (h) For purposes of this section, possession of a California  
26 driver's license by the registered owner of a vehicle shall give rise  
27 to a rebuttable presumption that the owner is a resident of  
28 California.

29 SEC. 8. Section 9561 of the Vehicle Code is amended to read:

30 9561. (a) When a legal owner, his or her agent, or a reposessor  
31 who is licensed pursuant to Chapter 11 (commencing with Section  
32 7500) of Division 3 of the Business and Professions Code  
33 repossesses a vehicle on which renewal fees are due, the department  
34 shall waive any renewal penalties that are due for late payment if  
35 the fees are paid within 60 days of taking possession.

36 (b) Notwithstanding any other provisions of this code, when a  
37 repossessed vehicle is sold through a dealer conducting a wholesale  
38 motor vehicle auction as provided in subdivision (b) of Section  
39 4456 and Article 5 (commencing with Section 6100) of Chapter  
40 2 of Division 3, any penalties that may be due are waived, if all

1 renewal fees that are due are paid not later than 60 days after the  
2 date of sale at the auction.

3 SEC. 9. Section 10856 is added to the Vehicle Code, to read:

4 10856. A person shall not interfere with the transport of a  
5 vehicle to a storage facility, auction, or dealer by a reposessor  
6 who is licensed pursuant to Chapter 11 (commencing with Section  
7 7500) of Division 3 of the Business and Professions Code once  
8 repossession is complete as provided in Section 7507.12 of the  
9 Business and Professions Code.

10 ~~SEC. 10. Section 22651.1 of the Vehicle Code is amended to~~  
11 ~~read:~~

12 ~~22651.1. (a) Persons operating or in charge of any storage~~  
13 ~~facility where vehicles are stored pursuant to Section 22651 shall~~  
14 ~~accept a valid bank credit card or cash for payment of towing and~~  
15 ~~storage by the registered owner, legal owner, or the owner's agent~~  
16 ~~claiming the vehicle. A credit card shall be in the name of the~~  
17 ~~person presenting the card. "Credit card" means "credit card" as~~  
18 ~~defined in subdivision (a) of Section 1747.02 of the Civil Code,~~  
19 ~~except, for the purposes of this section, credit card does not include~~  
20 ~~a credit card issued by a retail seller. A person operating or in~~  
21 ~~charge of any storage facility who refuses to accept a valid bank~~  
22 ~~credit card, or who accepts the card but requires a copy of the card~~  
23 ~~before releasing the vehicle, shall be liable to the owner of the~~  
24 ~~vehicle or to the person who tendered the fees for four times the~~  
25 ~~amount of the towing and storage charges, but not to exceed five~~  
26 ~~hundred dollars (\$500). In addition, persons operating or in charge~~  
27 ~~of the storage facility shall have sufficient funds on the premises~~  
28 ~~to accommodate and make change in a reasonable monetary~~  
29 ~~transaction.~~

30 ~~(b) Subdivision (a) shall not apply to transactions in which the~~  
31 ~~sole means of recording the person's credit card account number~~  
32 ~~is by handwriting or by an imprint of the credit card.~~

33 ~~(c) Credit charges for towing and storage services shall comply~~  
34 ~~with Section 1748.1 of the Civil Code. Law enforcement agencies~~  
35 ~~may include the costs of providing for payment by credit when~~  
36 ~~agreeing with a towing or storage provider on rates.~~

37 ~~SEC. 11.~~

38 ~~SEC. 10.~~ No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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